

## **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation (Department) proposes to adopt Sections 3504.1 and 3504.2 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the determination of the highest control or risk classification for persons being released to parole.

This action will bring the Department into regulatory compliance with the provisions of Penal Code (PC) Section 3060.7 by adopting new language that specifies the criteria by which an inmate/parolee will be defined as being within the highest control or risk classification for the purposes of parole supervision. In addition, new text will specify the parole reporting requirements for inmates who meet this criteria and are required to report to his or her assigned parole unit.

The Department recognizes that portions of the language utilized in these regulations duplicates State statute, specifically in part, PC Section 3060.7. This is necessary as the target population for the CCR Title 15, Division 3, includes incarcerated inmates and newly released parolees. This population does not have immediate access to current California Penal Code editions for review. By duplicating the statutory language, the Department can establish the foundation for the regulation to help ensure a complete understanding of the statutory authority. Because of this necessity, it is the Department's position that any duplication of State statute in these regulations does not serve as the same purpose for the above referenced PC Section, and is necessary in order to satisfy the clarity standard as provided in Government Code Section 11349(c).

In 1995, following the murder of Sonoma County Deputy Sheriff Frank Trejo by an inmate that was just released from prison, Senate Bill 856 was passed and codified in PC Section 3060.7. The intent of the bill was to ensure that those inmates determined by the Department to be the *highest control or risk classification* reported for parole supervision within 48 hours after release, and if the inmate failed to report, that a warrant for arrest would be issued. Upon passage, the Department had four levels of supervision, one of which was "High Control." However, since that time, the Department has developed six additional levels of supervision. The new supervision levels have created ambiguity in what was once a clear definition of the highest control or risk classification that should be used by the Department to comply with the law.

Additionally, as provided in Senate Bill X3-18, the Department is embarking on parole reform. Under the parole reform model, every inmate released from prison, regardless of his or her California Static Risk Assessment (CSRA) score as described in CCR Section 3768.1, will be "supervised" at the same level. As such, the Department now needs to define the criteria by which an inmate is assigned the highest control or risk classification. These regulations will provide a standardized definition to be uniformly applied throughout the Department.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

The Department has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on affected private persons or small business then the action planned.

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective, and as less burdensome to affected private persons than the action proposed.

The Department in proposing amendments to these regulations has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

**New Section 3504.1 is adopted.**

#### **3504.1. Determination of Highest Control or Risk Classification.**

**New Subsections 3504.1 (a) through (b) are adopted** to provide the criteria by which any person being released on parole is defined as being within the highest control or risk classification. The Department defines the highest control or risk classification as any person required to register as a sex offender pursuant to the provisions of PC Section 290 through 290.023, inclusive, and any person with a CSRA score of 5 or above. The section also provides for any person that does not have a CSRA score available to default to a score of 5. After release on parole, a CSRA risk number value shall be provided within five business days. This will ensure that every person released from prison will have an established criteria, which can then be reviewed by institution and parole authorities to determine if they do or do not qualify for release pursuant to PC 3060.7.

#### **3504.2. Highest Control or Risk Classification Parole Reporting Requirements.**

**New Subsection 3504.2 (a) is adopted** to outline the timeframe for reporting for parole supervision for all persons meeting the criteria established in CCR Section 3504.1. Specifically, persons meeting the criteria must report the first working day after the day of release or within 48 hours, whichever is sooner.

**New Subsections 3504.2 (a)(1)-(a)(2) are adopted** to establish the prohibition of releasing an inmate from a State facility on a Friday or the day before a legal holiday if he or she meets the criteria established in CCR Section 3504.1. Section 3504.2(a)(2) requires that any such scheduled release would require a release date adjustment.

**New Subsections 3504.2 (b) and subordinate subsections (1) through (11) are adopted** to define the legal holidays recognized by the Department for the purposes of implementing CCR subordinate subsection 3504.2(a)(1). This is necessary to ensure only those holidays recognized by the Department are utilized for the purposes of a release date adjustment. This language is also necessary in order to provide clarification, and as a directive to staff the appropriate days a person released on parole is to report to his or her parole unit.

**New Subsection 3504.2 (c) is adopted** to ensure compliance statute by directing parole staff to work on a weekend or holiday if, after a date adjustment, an inmate would be unable to be seen within 48 hours of release. For example, if an eligible inmate were scheduled for release on the Wednesday before Thanksgiving, the release date would be adjusted to Thursday, Thanksgiving

Day. Since Thanksgiving Day, and the Friday immediately after Thanksgiving are holidays as defined in CCR Section 3504.2(b), the inmate would have to be seen no later than Saturday, a typical schedule day off for a parole agent. This section ensures staff is made aware of the responsibility to work on the weekend or a holiday to comply with statute.